

Page Denied

21 June 1988

OS REGISTRY

8-0863X

NOTE FOR: EXO/OS
Plans and Policy Staff, OS
DD/P&TS/OS

1. Attached bill, Law Enforcement National-Labor Management Act (HR 4568) is sent to you for review and comment.

2. Under its provisions, the SPO's and perhaps others who fit the definition of law enforcement officer will be granted the right to unionize and enter into collective bargaining. Justice Department advises that they will represent our position, based upon a preliminary reading, that we should be exempted.

3. DOJ also informed me that the bill was on the "fast track". However, my contacts on the Post Office and Civil Service Committee report that they do not expect hearings to be held until late summer. DOJ may have been in contact with the House Labor Committee where the bill has also been referred. Regardless, I would appreciate your views within the next couple of weeks. I do not believe we need to consult with OGC until we see some positive signs of movement in the Post Office and Civil Service Committee since they have primary jurisdiction over legislation affecting Federal law enforcement officers. An OCA attorney has been assigned.

STAT

cc: DDA

ADMIN/INTERNAL USE ONLY

Enter a NUMBER (1-7) or 'STOP'3

LEGI-SLATE Report for the 100th Congress Mon, June 20, 1988 4:59pm (ED)

Report for H.R.4568 Law Enforcement National Labor - Management Relations Act
As introduced in the House
Complete Text of this version

100th CONGRESS
2d Session

H. R. 4568

To guarantee the right of law enforcement officers to organize and bargain
collectively.

IN THE HOUSE OF REPRESENTATIVES

May 11, 1988

Mr. Clay introduced the following bill; which was referred jointly to the
Committees on Education and Labor and Post Office and Civil Service

A BILL

To guarantee the right of law enforcement officers to organize and bargain
collectively.

=====

Be it enacted By the Senate and House of Representatives of the United
States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Law Enforcement National
Labor-Management Relations Act".

(b) Table of Contents.--

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 6. Recognition and exclusive representation.

Sec. 7. Impasse procedure.

Sec. 8. Unfair labor practices.

Sec. 9. Prevention of unlawful acts.

Sec. 10. No strike provision.

Sec. 11. Relation to other laws.

Sec. 12. Effect on existing collective-bargaining agreements.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.--The Congress finds that--

(1) interruption of services provided by law enforcement officers due to employee-management breakdown, has not only created turmoil for Federal, local, and municipal governments, but also has created unsafe conditions for the general public; and

(2) a process for law enforcement officers to contribute to the policies and conditions which direct and affect their careers will allow the resolution of disputes and prevent the disruption of vital services.

(b) Purpose.--It is the purpose of this Act--

(1) to prescribe certain rights and obligations of the law enforcement officers of the States, territories, and possessions of the United States (and the political subdivisions thereof);

(2) to establish procedures governing the relationship between such employees and their employers, which procedures are designed to meet their special requirements and needs; and

(3) to prevent the disruption of vital public safety services in our Nation's communities.

SEC. 3. DECLARATION OF POLICY.

It is therefore declared to be the policy of the United States to protect the rights of law enforcement officers, to ensure equality of treatment among law enforcement officers and to provide continued police protection to the general public and for the general welfare and free flow of commerce by--

(1) recognizing the rights of such employees of the States, territories, and possessions of the United States (and the political subdivisions thereof)--

(A) to form, join, and assist employee organizations, to bargain collectively with their employers over the terms and conditions of employment and other matters of mutual concern relating thereto through representatives of their own choosing, and

(B) to engage in other activities, individually and in concert, for the purpose of establishing, maintaining, and improving terms and conditions of employment and other matters of mutual concern relating thereto; and

(2) establishing procedures to facilitate and encourage the amicable settlement of disputes between such employees and their employers.

SEC. 4. DEFINITIONS.

As used in this Act the following terms have the following meanings:

(1) The term "person" includes one or more individuals, organizations, unions, associations, partnerships, corporations, boards, committees, commissions, agencies, or other entities, or their representatives.

(2) The term "employer" includes the Federal Government, any State, territory, or possession of the United States (or any political subdivision thereof, including any town, city, county, borough, police district, or any agency covering two or more of such political subdivisions), any other entity which is tax supported, and any person acting as an agent thereof.

(3) The term "employee" or "law enforcement officer" includes any employee (A) who is a uniformed or plainclothes member of a body of officers who are empowered by State or Federal statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury and to prevent and detect crimes, (B) who has the power of arrest, and (C) who is

(5) The term "correctional institution" means any government facility maintained as part of a penal system for the incarceration or detention of person suspected or convicted of having breached the peace or committed some other crime. Such facilities include penitentiaries, prisons, prison farms, county, city, and village jails, precinct house lockups, and reformatories.

(7) The term "~~exclusive~~ representative" includes any employee organization which--

(B) has been recognized by an employer, before the date of the enactment of this Act, as the exclusive representative of the employees in an appropriate collective bargaining unit.

(9) The term "Commission" means the Federal Labor Relations Authority.

(11) The term "labor dispute" means any controversy concerning terms and conditions of employment or other matters of mutual concern relating thereto, or concerning the representation of employees for the purpose of collective bargaining, regardless of whether the disputants stand in the proximate relation of employer and employee.

(13) The term "State" includes the United States, each of the several States, the District of Columbia, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(a) Employee Rights.--Employees shall have the right--

- Declassified in Part - Sanitized Copy Approved for Release 2013/04/29 : CIA-RDP91B00390R000300180004-4

(b) Rights of Employee Organizations.--

(1) Employee organizations shall have the right--

(A) to have access at reasonable times to any employee work area to use the employer's bulletin boards, mailboxes, and other communication media, subject to reasonable regulation, and to use the employer's facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this Act, except that if an exclusive representative has been recognized, an employer shall deny such access and use to any employee organization other than such representative until such time as a lawful and timely challenge to the majority status of the representative is raised pursuant to section 6; and

(B) to have deducted from the salary of employees, upon receipt of an appropriate authorization form (which shall not be revocable for a period of at least 1 year) an amount equivalent to the fees and dues required for membership in any such organization.

(2) If an exclusive representative has been recognized, an employer shall deny the deduction referred to in paragraph (1)(B) to any employee organization other than such recognized representative.

(c) Obligation to Pay Representation Fee to Exclusive Representative.--

(1) If an exclusive representative has been recognized for the employees in an appropriate collective-bargaining unit, each employee in such unit who is not a member of such organization shall be required, as a condition of continued employment, to pay to such organization an amount equivalent to that share of the dues, fees, or assessments paid by a member of such organization which are associated with the provision of exclusive representation by such organization. The requirement shall continue while such organization remains the exclusive representative.

(2) Payments shall be made in accordance with rules and regulations prescribed for such purpose by the Commission.

SEC. 6. RECOGNITION AND EXCLUSIVE REPRESENTATION.

(a) In General.--Employers shall recognize an employee organization designated by the majority of employees in an appropriate bargaining unit as the exclusive bargaining representative of all the employees of the unit for the purpose of collective bargaining, unless the employer entertains a good faith doubt as to the validity or accuracy of the evidence demonstrating majority support in an appropriate unit or as to the appropriateness of the claimed unit.

(b) Investigation and Hearing.--Whenever a petition shall have been filed--

(1) by an employer alleging--

(A) a good faith doubt as to majority support in an appropriate unit,

(B) that a claimed unit is inappropriate, or

(C) that more than one employee organization claims to represent a substantial number of the employees in a bargaining unit,

(2) by an employee organization alleging that 30 percent of the employees in a bargaining unit wish to be represented by such organization, or

(3) by or on behalf of the unit alleging that the exclusive representative no longer represents a majority of the employees in the unit,

the Commission shall investigate the allegation, and if it has reasonable cause to believe that a substantial question of representation exists, shall provide for an appropriate hearing upon due notice. If, after such hearing, the Commission finds that there is a controversy concerning the representation of employees, it shall direct an election by secret ballot or shall use any other suitable method to determine whether, or by which employee organization the employees in an appropriate unit desire to be represented. The Commission shall certify any employee organization which received a majority of the votes in such election as the exclusive representative of such employees.

(c) Bar on Subsequent Elections.--Except for good cause, no election shall

shall, by its rules, provide an appropriate period before the expiration of such agreement when certification or decertification petitions may be filed.

(d) Consent Election.--Nothing in this section shall be construed to prohibit a stipulation, in accordance with regulations of the Commission, by an employer and an employee organization for the waiving of the hearing described in subsection (b) and the conducting of a consent election by the Commission.

(e) Challenge to Appropriateness of Bargaining Unit.--If the employer's petition challenges the appropriateness of claimed bargaining unit, the Commission shall, based on the record of an appropriate hearing, determine the appropriateness of the unit, taking into consideration such criteria as--

- (1) community of interest,
- (2) efficiency of operations and effective dealings,
- (3) safeguards to the rights of employees to effective representation,

and

- (4) any other criteria consistent with the purposes of providing for stable and continuing labor relations.

(f) Conduct of Hearing; Decision; Review.--The Commission may permit a member or agent of the Commission to conduct a hearing under this section. The decisions and determinations of such member or agent shall be final and binding unless, within 10 days after notice thereof, any party requests a review by the full Commission. If a review is requested, the member or agent shall file with the Commission and with the parties a written statement of the case. In addition, any party may, within 10 days after the receipt of such statement, file a supplementary statement with the Commission.

(g) Determinations as to Outcome of Election.--The Commission shall certify the results of an election within 5 working days after the final tally of votes, if no charge is filed by any person alleging that an unfair labor practice existed in connection with such election. If the Commission receives such a charge and has reason to believe that such allegations are valid, it shall set a time for a hearing on the matter after due notice. Any such hearing shall be conducted within 2 weeks after the date of receipt of such charge. If the Commission determines that the outcome of the election was affected by the unfair labor practice charged or for any other unfair labor practice it may deem existed, it shall require corrective action and order a new election. If the Commission determines that an unfair labor practice did not exist, or, if it existed, did not affect the outcome of the election, the Commission shall immediately certify the election results.

(h) Adjustment of Grievances.--

(1) Subject to paragraph (2), representatives selected by employees in a unit appropriate for collective bargaining purposes shall be the exclusive representative of all the employees in such unit to bargain on wages, hours, and terms and conditions of employment.

(2) Any individual employee or a group of employees shall have the right at any time to present grievances to its employer and to have such grievances adjusted without the intervention of the bargaining representative as long as the adjustment is not inconsistent with the terms of the collective bargaining contract then in effect. The bargaining representative shall be given an opportunity to be present at such adjustment.

(i) Continuation of Representation by Existing Organization.--Any employee representative in existence on the date of the enactment of this Act shall so continue without the requirement of an election and certification until such time as a question concerning representation is appropriately raised under this Act or until the Commission finds the unit not to be appropriate after challenge by the employer, a member of the unit, or an employee organization. The appropriateness of the unit may not be challenged until the expiration of any collective bargaining agreement in effect on the date of the enactment of this Act.

SEC. 7. IMPASSE PROCEDURE.

(a) Arbitration Panel.--

(1) If an employer or an exclusive representative declares that an

(A) one [redacted] employer, and one appointed by the
excl [redacted] within 15 days after the date of request by
the party declaring impasse; and

(B) an impartial arbitrator (who shall serve as chairman) selected
by the arbitrators appointed under subparagraph (A), within 5 days
after the date of their appointment.

(2) In the event the arbitrators appointed under paragraph (1)(A) are
unable to agree on the selection of the impartial arbitrator, such
arbitrators shall immediately request a panel of arbitrators from the
Federal Mediation and Conciliation Service. Each such arbitrator shall
advise the Service of his or her order of preference within 5 days after
receipt of the names on the panel, and appointment of the third arbitrator
shall then be made in accordance with the procedure outlined in section
1401.13(b)(2) of title 29, Code of Federal Regulations.

(3) The arbitration panel shall conduct a **hearing, within 14 days** of
after the date of appointment of its chairman, at a place within the
locality of the municipal government involved, where feasible. The
chairman shall notify the representatives of the employer and the
exclusive representative as to date and place of such hearing not less
than 7 days before the date on which the hearing is to be conducted.

(b) **Hearing Before Arbitration Panel.--**

(1) The chairman shall preside over the hearing and shall take
testimony. Upon application and for good cause shown, a person, labor
organization, or governmental unit having substantial interest in the
proceedings may be granted leave to intervene by the arbitration panel.
The proceedings shall be informal. Any oral or documentary evidence and
other data deemed relevant by the arbitration panel may be received into
evidence.

(2) The arbitrators shall have the power to administer oaths and to
require by subpoena the attendance and testimony of witnesses, the
production of books, records, and other evidence relative to or pertinent
to the issues presented to them for determination.

(3) If any person refuses to obey a subpoena, or refuses to be sworn
or to testify, or if any witness, party, or attorney is guilty of any
contempt while in attendance at any hearing, the arbitration panel shall
invoke the aid of the district court of the United States within the
jurisdiction in which the hearing is being held. Such court shall issue an
appropriate order.

(c) **Record and Transcripts; Decision.--**

(1) A record of the proceedings shall be kept, and the chairman shall
arrange for the necessary recording service. Transcripts may be ordered at
the expense of the party ordering them, but the transcripts shall not be
necessary for an award by the panel. The hearing may be continued at the
discretion of the panel but shall be concluded within 30 days after the
time of commencement. At the conclusion of the hearing, each party shall
submit a written statement containing its final position with respect to
each of the issues in dispute to the panel, which shall take such
statements under advisement.

(2) **Within 10 days** after conclusion of the hearing, a majority of the
panel shall **issue a statement of its findings and conclusions** and shall
give written notice of the panel's decision of the issue or issues at
impasse. The decision of the panel shall be final and binding upon the
parties and upon the appropriate legislative body.

(d) **Awards; Enforcement.--**Any award of the arbitration panel may be
retroactive to the expiration date of the last contract. If an employer or an
exclusive representative willfully disobeys a lawful decision of the
arbitration panel or willfully encourages or offers resistance to such order,
the other party may seek enforcement of the order in the district court of the
United States within the jurisdiction in which the hearing is held.

(e) **Arbitration Costs.--**The costs of arbitration shall be shared equally
by the parties, including any intervenor.

discriminate or threaten to discriminate against any employee, or otherwise interfere with, restrain, or coerce any employee because of the exercise of rights guaranteed by this Act;

(2) to dominate, interfere with, or assist in the formation or administration of any employee organization;

(3) to encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure, or employment, or any term or condition of employment;

(4) to deny to any employee organization the rights guaranteed to it by this Act;

(5) to refuse or fail to collectively bargain in good faith with an exclusive representative, if requested to do so; or

(6) otherwise to fail to comply with any provision of this Act.

Nothing in this subsection shall be construed to make unlawful the dismissal of an employee who fails to comply with section 5(c).

(b) **Unlawful Acts by Employee Organization or Exclusive Representative.**--It shall be unlawful for an employee organization--

(1) to restrain or coerce any employee in the exercise of rights guaranteed to him or her by this Act, except that this paragraph shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein;

(2) to restrain or coerce an employer in the selection of its representative for the purpose of collective bargaining or the adjustment of grievances; or

(3) when acting as an exclusive representative, to refuse or fail to bargain collectively in good faith with an employer if requested to do so.

(c) **Nature of Duty to Bargain.**--The duty to bargain collectively shall extend to matters which are or may be the subject of a statute, ordinance, regulation, or other enactment by the United States, a State, territory, or possession of the United States (or a political subdivision thereof). If legislative action is necessary to implement any agreement reached, such duty shall include the obligation of the employer to submit such agreement to the appropriate governmental body for action.

SEC. 9. PREVENTION OF UNLAWFUL ACTS.

(a) **Commission Authority.**--The Commission is empowered to prevent any person from engaging in any unfair labor practice (as enumerated in section 8). Such power shall not be affected by any other means of adjustment or prevention established by agreement, law, or otherwise.

(b) **Issuance of Complaint.**--

(1) Whenever it is charged that any person has engaged in or is engaging in any unfair labor practice, the Commission (or any member, agent, or agency designated by the Commission) shall have the power to issue and cause to be served upon such person a complaint alleging such unfair labor practice and containing a notice of hearing before the Commission (or a member, agent, or agency thereof).

(2) The hearing shall be scheduled not less than 5 days after the service of such complaint and shall be held at a time and place specified in the complaint.

(3) No complaint shall issue based upon any unfair labor practice occurring more than 6 months before the filing of the charge with the Commission and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the 6-month period shall be computed from the date of his or her discharge from the armed forces.

(4) Any such complaint may be amended by the Commission (or by the member, agent, or agency conducting the hearing), in its discretion, at any time before the issuance of an order based thereon, as long as the person complained of is not unfairly prejudiced by such amendment.

(5) The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint. In the

practicable, be conducted in accordance with subchapter 11 or chapter 5 of title 5, United States Code, except that the rules of evidence, whether statutory, common law, or adopted by rules of court, shall not be controlling.

(c) Issuance of Orders.--

(1) The testimony taken by such member, agent, or agency of the Commission shall be reduced to writing and filed with the Commission. Thereafter, in its discretion, the Commission, upon notice, may take further testimony or hear argument.

(2) If upon the preponderance of the testimony taken, the Commission shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unlawful act, the Commission shall state its findings of fact and shall issue, and cause to be served upon such person, an order requiring such person to cease and desist from such unlawful act, and to take such affirmative action as will effectuate the purpose and policy of this Act, including the payment of damages and reinstatement of employees.

(3) Where an order directs reinstatement of an employee, backpay may be required of the employer or of the employee organization, as the case may be, responsible for the discrimination suffered by the employee. Such order may further require such person to make reports from time to time showing the extent to which such person has complied with the order.

(4) If, upon the preponderance of the testimony taken, the Commission shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unlawful act, the Commission shall state its findings of fact and shall issue an order dismissing the complaint.

(5) No order of the Commission may require the reinstatement of any individual or the payment of any back pay, if such individual was suspended or discharged for cause.

(6) In case the evidence is presented before a member, agent, or agency of the Commission, such member, agent, or agency shall issue and cause to be served upon the parties to the proceeding of a proposed report, together with a recommended order, which shall be filed with the Commission. If no exceptions are filed within 20 days after service thereof upon such parties, or within such further period as the Commission may authorize, such recommended order shall become the order of the Commission and become effective as prescribed in the order.

(d) Filed Exceptions.--If exceptions are filed to the proposed report and recommended order, the Commission shall determine whether such exceptions raise substantial issues of fact or law. If it determines that the exceptions do raise such issues, it shall grant a review. If the Commission determines that the exceptions do not raise such issues, it shall refuse to grant a review, and such recommended order shall become the order of the Commission and become effective as provided in the order.

(e) Modification of Order.--Until the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside (in whole or in part) any finding or order made or issued by it.

(f) Access to Evidence, Subpoenas.--

(1) For the purpose of all hearings and investigations which the Commission determines are necessary and proper for the exercise of its powers under this Act, the Commission (or its duly authorized agent or agency) shall at all reasonable times have access to (for the purpose of examination) and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question.

(2) The Commission (or any member thereof) shall, upon application of any party to such proceeding, forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application.

(3) Within 5 days after the service of a subpoena upon any person

evidence (whose production is required) does not relate to any matter under investigation, or any matter in question in such proceeding, or if in its opinion such subpoena does not describe with sufficient particularity the evidence whose production is required.

(4) Any member of the Commission, or any agent or agency designated by the Commission for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in any State, territory, or possession of the United States, at any designated place of hearing.

(g) Order to Appear.--In case of contumacy or refusal to obey a subpoena issued to any person, any district court of the United States (including the District Court of the United States for the District of Columbia, or the jurisdiction in which the inquiry is carried on or within the jurisdiction in which such person guilty of contumacy or refusal to obey is found or resides or transacts business), upon application by the Commission, shall have jurisdiction to issue such person an order requiring such person to appear before the Commission, its member, agent, or agency to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(h) Self-Incrimination.--No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required may tend to incriminate him or her or subject him or her to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(i) Service of Complaints.--Complaints, orders, and other process and papers of the Commission, its members, agent, or agency, may be served personally, by registered mail, by telegraph, or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the complaint, order, or other process or papers setting forth the manner of such service shall be proof of service, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed shall be proof of service of the same. Witnesses summoned before the Commission, its members, agent, or agency shall be paid the same fees and mileage paid witnesses in the courts of the United States. Witnesses whose depositions are taken and the person taking the depositions shall be entitled to the same fees as are paid for like services in the courts of the United States.

(j) Service of Process.--All process of any court to which application may be made under this Act may be served in the judicial district in which the defendant or other persons required to be served resides or may be found.

(k) Penalty for Interference With Commission.--Any person who shall willfully resist, prevent, impede, or interfere with any member of the Commission or a member, agent, or agency thereof in the performance of duties pursuant to this Act shall be punished by a fine not to exceed \$5,000, by imprisonment not to exceed 1 year, or both.

(1) Judicial Enforcement.--

(1) The Commission or the charging party shall have power to petition any court of appeals of the United States in the circuit in which the unlawful act in question occurred or in which the person named in the complaint resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order. The Commission or such party shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(2) Upon filing of such petition, the court shall cause notice thereof to be served upon the person named in the complaint, and thereupon shall have jurisdiction over the proceeding and of the question determined

(3) No objection that has not been raised before the Commission, or its member, agent, or agency, shall be considered by the court, unless the failure or neglect to raise such objection shall be excused because of extraordinary circumstances.

(4) The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(5) If any person shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission (or its member, agent, or agency), the court may order such additional evidence to be taken before the Commission (or its member, agent, or agency) and to be made part of the record.

(6) The Commission may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed, and it shall file such modified or new findings. The findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and the Commission shall file its recommendations, if any, for the modification or setting aside of its original order.

(7) Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(m) Judicial Review.--

(1) Any person aggrieved by a final order of the Commission granting or denying, in whole or in part, the relief sought may obtain a review of such order in the circuit court of appeals of the United States in the circuit in which the unlawful act in question was alleged to have occurred or in which such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court within 60 days, a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the aggrieved person shall file in the court the record in the proceeding, certified by the Commission, as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (e) of this section, and shall have the same jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the Commission. The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record as a whole, shall in like manner be conclusive.

(n) Exclusion of Evidence Taken During Representation Proceeding.--In any proceeding for enforcement or review of a Commission order held pursuant to this section, evidence adduced during a representation proceeding held pursuant to section 6 shall not be included in the record required to be filed under subsections (1) and (m), nor shall the court consider the record of such proceeding.

(o) Proceedings Not a Stay of Order.--The commencement of proceedings under subsection (1) or (m) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

SEC. 12. NO STRIKE PROVISION.

No law enforcement officer or exclusive representative shall engage in a strike or induce, encourage, or condone any strike, work stoppage, slowdown, or withholding of services by law enforcement officers.

their employees in regard to all matters covered herein and shall preempt any provision of any Federal, State, or local law which is inconsistent with this Act.

(b) Applicability of Substantially Equivalent State or Local Laws.--

(1) If any State, city, territory, or possession of the United States shall by law establish a system for regulating the relationship between employers and their employees which is substantially equivalent to the system established by this Act, such State, territory, or possession, or any employee organization which has been recognized as the representative of employees pursuant to the system in such State, territory, or possession, may apply to the Secretary of Labor for an exemption from the provisions of this Act.

(2) If the Secretary of Labor determines that the system of regulation established by such State, territory, or possession is substantially equivalent to the system established herein, the requested exemption shall take effect on a date fixed by the Secretary.

(c) Judicial Review of Secretary's Determination.--

(1) Any employee or employer may obtain judicial review of a determination by the Secretary made pursuant to subsection (a). A petition to review a final determination by the Secretary shall be filed in a court of appeals of the United States as provided in title 28, United States Code.

(2) Notwithstanding any other provision of law, any petition for review must be filed within 30 days after the date on which the petitioner receives notice of the final decision of the Secretary.

SEC. 12. EFFECT ON EXISTING COLLECTIVE BARGAINING AGREEMENTS.

Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to annul, modify, or preclude the renewal or continuation of any lawful agreement entered into before the effective date of this Act between an employer and an employee organization covering terms and conditions of employment (and other matters of mutual concern relating thereto).

HR 4568 IH----2

HR 4568 IH----3

HR 4568 IH----4